

**INDIANA BOARD OF TAX REVIEW**

**Final Determination  
Findings and Conclusions  
Lake County**

**Petitions:** 45-041-02-1-5-00113 45-041-02-1-5-00200  
45-041-02-1-5-00114 45-041-02-1-5-00201  
45-041-02-1-5-00115 45-041-02-1-5-00202  
45-041-02-1-5-00116 45-041-02-1-5-00203  
45-041-02-1-5-00117 45-041-02-1-5-00204  
45-041-02-1-5-00118 45-041-02-1-5-00205  
45-041-02-1-5-00187 45-041-02-1-5-00206  
45-041-02-1-5-00188 45-041-02-1-5-00207  
45-041-02-1-5-00189 45-041-02-1-5-00208  
45-041-02-1-5-00190 45-041-02-1-5-00209  
45-041-02-1-5-00191 45-041-02-1-5-00210  
45-041-02-1-5-00192 45-041-02-1-5-00211  
45-041-02-1-5-00193 45-041-02-1-5-00212  
45-041-02-1-5-00194 45-041-02-1-5-00213  
45-041-02-1-5-00195 45-041-02-1-5-00214  
45-041-02-1-5-00196 45-041-02-1-5-00215  
45-041-02-1-5-00197 45-041-02-1-5-00216  
45-041-02-1-5-00198 45-041-02-1-5-00217  
45-041-02-1-5-00199 45-041-02-1-5-00218

**Petitioners:** Exie L. and Mildred F. Ward

**Respondent:** Department of Local Government Finance

**Parcels:** 003-31-25-0259-0030 003-31-25-0259-0020  
003-31-25-0259-0025 003-31-25-0259-0021  
003-31-25-0259-0040 003-31-25-0259-0022  
003-31-25-0259-0027 003-31-25-0259-0023  
003-31-25-0259-0026 003-31-25-0259-0041  
003-31-25-0259-0028 003-31-25-0259-0042  
003-31-25-0260-0042 003-31-25-0259-0043  
003-31-25-0260-0040 003-31-25-0259-0044  
003-31-25-0260-0041 003-31-25-0259-0024  
003-31-25-0260-0043 003-31-25-0259-0039  
003-31-25-0259-0011 003-31-25-0259-0038  
003-31-25-0259-0012 003-31-25-0259-0037  
003-31-25-0259-0013 003-31-25-0259-0036  
003-31-25-0259-0014 003-31-25-0259-0035  
003-31-25-0259-0015 003-31-25-0259-0034  
003-31-25-0259-0016 003-31-25-0259-0033  
003-31-25-0259-0017 003-31-25-0259-0032  
003-31-25-0259-0019 003-31-25-0259-0031  
003-31-25-0259-0018 003-31-25-0259-0029

**Assessment Year:** 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

### **Procedural History**

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined Petitioners' property tax assessments for the subject properties and notified Petitioners on March 12, 2004.
2. Petitioners filed the Forms 139L on April 12, 2004.
3. The Board issued notices of hearing to the parties dated February 21, 2005.
4. Special Master Rick Barter held the hearing on March 23, 2005, in Crown Point.

### **Facts**

5. Subject properties are located at 13801 Hobart, 6510 W. 145<sup>th</sup>, and Shades Lots 11, 12, 41, 42, and 43 in Cedar Lake, Center Township.
6. Subject properties consist of 38 unimproved parcels. Each parcel has a negative fifty-percent influence factor.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed value (AV) of the subject property as determined by the DLGF is \$3,300 for each of the parcels.
9. The AVs requested by Petitioners are as follows:

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| Petition #          | Parcel #            | Address       | 2002 AV | Sought AV |
|---------------------|---------------------|---------------|---------|-----------|
| 45-041-02-1-5-00113 | 003-31-25-0259-0030 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00114 | 003-31-25-0259-0025 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00115 | 003-31-25-0259-0040 | 6510 W 145th  | \$3,300 | \$1,500   |
| 45-041-02-1-5-00116 | 003-31-25-0259-0027 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00117 | 003-31-25-0259-0026 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00118 | 003-31-25-0259-0028 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00187 | 003-31-25-0260-0042 | Shades Lot 43 | \$3,300 | \$500     |
| 45-041-02-1-5-00188 | 003-31-25-0260-0040 | Shades Lot 41 | \$3,300 | \$2,000   |
| 45-041-02-1-5-00189 | 003-31-25-0260-0041 | Shades Lot 42 | \$3,300 | \$2,000   |
| 45-041-02-1-5-00190 | 003-31-25-0260-0043 | 6510 W 145th  | \$3,300 | \$500     |
| 45-041-02-1-5-00191 | 003-31-25-0259-0011 | Shades Lot 11 | \$3,300 | \$500     |
| 45-041-02-1-5-00192 | 003-31-25-0259-0012 | Shades Lot 12 | \$3,300 | \$500     |
| 45-041-02-1-5-00193 | 003-31-25-0259-0013 | 6510 W 145th  | \$3,300 | \$500     |
| 45-041-02-1-5-00194 | 003-31-25-0259-0014 | 6510 W 145th  | \$3,300 | \$500     |
| 45-041-02-1-5-00195 | 003-31-25-0259-0015 | 6510 W 145th  | \$3,300 | \$7,500   |
| 45-041-02-1-5-00196 | 003-31-25-0259-0016 | 6510 W 145th  | \$3,300 | \$1,000   |
| 45-041-02-1-5-00197 | 003-31-25-0259-0017 | 6510 W 145th  | \$3,300 | \$1,000   |
| 45-041-02-1-5-00198 | 003-31-25-0259-0021 | 13801 Hobart  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00199 | 003-31-25-0259-0020 | 13801 Hobart  | \$3,300 | \$1,500   |
| 45-041-02-1-5-00200 | 003-31-25-0259-0019 | 13801 Hobart  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00201 | 003-31-25-0259-0018 | 13801 Hobart  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00202 | 003-31-25-0259-0022 | 13801 Hobart  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00203 | 003-31-25-0259-0023 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00204 | 003-31-25-0259-0041 | 6510 W 145th  | \$3,300 | \$500     |
| 45-041-02-1-5-00205 | 003-31-25-0259-0042 | 6510 W 145th  | \$3,300 | \$1,500   |
| 45-041-02-1-5-00206 | 003-31-25-0259-0043 | 6510 W 145th  | \$3,300 | \$1,500   |
| 45-041-02-1-5-00207 | 003-31-25-0259-0044 | 6510 W 145th  | \$3,300 | \$1,500   |
| 45-041-02-1-5-00208 | 003-31-25-0259-0024 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00209 | 003-31-25-0259-0039 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00210 | 003-31-25-0259-0038 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00211 | 003-31-25-0259-0037 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00212 | 003-31-25-0259-0036 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00213 | 003-31-25-0259-0035 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00214 | 003-31-25-0259-0034 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00215 | 003-31-25-0259-0033 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00216 | 003-31-25-0259-0032 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00217 | 003-31-25-0259-0031 | 6510 W 145th  | \$3,300 | \$2,000   |
| 45-041-02-1-5-00218 | 003-31-25-0259-0029 | 6510 W 145th  | \$3,300 | \$2,000   |

10. The following persons were present and sworn as witnesses at the hearing:  
For Petitioners - Exie L. Ward, owner,  
For Respondent - Tom Bennington, assessor/auditor.

## Issue

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) Petitioners contend the values of the parcels should be reduced because they have uneven terrain and natural drainage ditches are located on the property. *Ward testimony.*
  - b) The 38 parcels are all wooded. Access to the property is limited because most of the parcels do not have any roads. The parcels also have no sewage system or utilities. *Id.*
  - c) There are eight lots (Lots 23 through 30 on Petitioners' plat map) that are relatively level and do not contain ditches. *Ward testimony; Petitioners Exhibit 1.*
  - d) Petitioners submitted a plat map identifying their parcels and 15 photographs of the topographical features of the parcels. *Petitioners Exhibits 1, 2.*
12. Summary of Respondent's contentions in support of the assessment:
- a) Respondent did not attempt to refute any of the Petitioners' testimony or exhibits.
  - b) Respondent submitted a copy of each of the 38 Form 139L petitions, subject property record cards (PRCs), a copy of the PRC for Petitioners' homesite (not under appeal), and a partial plat map of the area. *Respondent Exhibits 1, 2.*

## Record

13. The official record for this matter contains the following:
- a) The Petition,
  - b) The tape recording of the hearing labeled Lake Co. 1268,
  - c) Exhibits:<sup>1</sup>
    - Petitioner Exhibit 1 - Copy of a map of Plat 1 - The Shades subdivision,
    - Petitioner Exhibit 2 - 15 photographs of topographical features of Petitioner's parcels,
    - Petitioner Exhibit 3 - Copies of Notices of Final Assessment for the 38 parcels,
    - Respondent Exhibit 1 - Copy of the PRC for the Petitioner's homesite,
    - Respondent Exhibit 2: - Copies of Form 139L for each of the 38 parcels, copies of the PRC of each parcel, and a partial plat map,

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<sup>1</sup> Each of the Respondent Exhibits is sub-numbered. For example, Respondent Exhibit 2 identifies the Form 139L as R #1 and the PRC as R #2. In this decision, the Board will disregard these sub-numbers and refer to each exhibit in its entirety.

Board Exhibit A - Forms 139L,  
Board Exhibit B - Notices of Hearing,  
Board Exhibit C - Sign-in sheet,

d) These Findings and Conclusions.

### Analysis

14. The most applicable laws are:

- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also*, *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
- b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board...through every element of the analysis”).
- c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

15. Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

- a) The parcels currently receive a negative fifty-percent influence factor. Petitioners contend this influence factor is inadequate to account for the parcels’ uneven topography and drainage ditches.
- b) An influence factor is “[a] multiplier that is applied to the value of land to account for characteristics of a particular parcel of land that are peculiar to that parcel. The factor may be positive or negative and is expressed as a percentage.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (GUIDELINES), Glossary at 10 (incorporated by reference at 50 IAC 2.3-1-2).
- c) To prevail on the issue of an influence factor, the taxpayer must present probative evidence that would support an application of a negative influence factor and a quantification of that influence factor at the administrative level. *Phelps Dodge v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1099 (Ind. Tax Ct. 1999). Adverse topographical features may support the application of a negative influence factor. GUIDELINES, ch. 2 at 61.

- d) Petitioners presented no market data, such as an appraisal or evidence of the sales of comparable properties, to support their proposed values. Petitioners did not present probative evidence to quantify any impact of the identified topographical features on the market value of the parcels. Their unsubstantiated conclusions concerning the proposed values do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

### **Conclusion**

16. Petitioners failed to make a prima facie case. The Board finds in favor of the Respondent.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - Appeal Rights -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.